

1 SWANSON & McNAMARA LLP
2 EDWARD W. SWANSON (159859)
3 AUDREY BARRON (286688)
300 Montgomery Street, Suite 1100
San Francisco, California 94104
Telephone: (415) 477-3800
Facsimile: (415) 477-9010

5 Cooley LLP
6 JOHN H. HEMANN (165823)
(jhemann@cooley.com)
7 MAX BERNSTEIN (305722)
(mbernstein@cooley.com)
8 101 California Street, 5th Floor
9 San Francisco, CA 94111-5800
Telephone: (415) 693-2000
10 Facsimile: (415) 693-2222

11 Attorneys for Defendant CHEN SONG

14 UNITED STATES DISTRICT COURT
15 NORTHERN DISTRICT OF CALIFORNIA
16 SAN FRANCISCO DIVISION

17 UNITED STATES OF AMERICA,
18 Plaintiff,
19 v.
20 CHEN SONG,
21 Defendant.

CASE NO. 3:21-cr-00011 WHA

JOINT STATUS STATEMENT

Date: February 9, 2021
Time: 2:00 pm (telephonic)

23
24 The parties submit this joint status statement in advance of the initial appearance before
25 Your Honor on February 9, 2021, at 2:00 pm.

26 Background. Chen Song was originally charged by complaint on July 17, 2020; she was
27 arrested the next day. The grand jury returned an indictment against Dr. Song on January 7, 2021.

1 Dr. Song is a neurologist and a Chinese national. The government alleges she is a member
 2 of the military of China's People's Liberation Army ("PLA") Air Force and employed
 3 permanently at the PLA's Air Force General Hospital in Beijing. Until the instant charges were
 4 filed, Dr. Song was in the United States on a J-1 visa, working at Stanford University in a
 5 neurology lab. Dr. Song lived in the United States with her daughter, who was six-years-old at the
 6 time of Dr. Song's arrest and recently turned seven, at the home of Dr. Song's aunt in Newark,
 7 California. The day after Dr. Song's arrest (July 18, 2020), her daughter returned to China. Dr.
 8 Song was ordered by Magistrate Judge Kim to remain in the United States where she continues to
 9 live with her aunt in Newark.

10 The indictment charges a single count of possessing a fraudulent visa, in violation of 18
 11 U.S.C. § 1546(a). The government is considering presenting additional charges to the grand jury,
 12 including charges of obstruction of justice and false statements, and has described these charges to
 13 the defense.

14 Discovery Status. The government has been producing discovery to the defense since
 15 shortly after the case was charged in July and intends to continue producing discovery to the
 16 defense as it receives it. In addition, the government has informed the defense that it anticipates
 17 filing a motion pursuant to the Classified Information Procedures Act (CIPA).

18 Trial. The parties respectfully request that the Court set trial to begin in this matter on or
 19 about April 26, 2021.

20 Because jury trials in this district are being delayed by the pandemic, Dr. Song will waive
 21 her right to be tried by a jury and request a bench trial. Defense counsel have requested that the
 22 government consent to a bench trial pursuant to Fed. R. Crim. P. 23(a)(2). If the government so
 23 consents, Dr. Song will agree not to file any pretrial motions, including discovery motions or
 24 motions challenging the pleadings, although she will reserve the right to file motions *in limine* or
 25 motions challenging expert testimony. Should the government produce discovery or file charges
 26 that the defense believes require litigation through pretrial motions, the defense agrees that the
 27 government should be permitted to withdraw its consent to a bench trial. The government is
 28 considering this request and will be in a position to advise the Court of its decision within two

1 weeks.

2 The parties currently estimate that a bench trial will take three to four days.

3
4 Dated: February 8, 2021

/s/

5 Edward W. Swanson
Audrey Barron
6 SWANSON & McNAMARA LLP

7 John H. Hemann
Max Bernstein
8 COOLEY LLP

9 Attorney for Chen Song

10
11
12 DAVID L. ANDERSON
13 United States Attorney

14
15 Dated: February 8, 2021

/s/

16 BENJAMIN KINGSLEY
ERIC CHENG
17 Assistant U.S. Attorneys